

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0692**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On March 2, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$11,667 in combined state and federal benefits that claimant was required to repay, a \$3,500.10 monetary penalty, and a 52-week penalty disqualification from future benefits (decision # 193440). On March 22, 2023, decision # 193440 became final without claimant having filed a request for hearing. On February 26, 2024, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on February 29, 2024, issued Order No. 24-UI-249147, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by March 20, 2024. On March 4, 2024, claimant filed a timely response to the appellant questionnaire. On April 2, 2024, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 24-UI-249147 was vacated and that a hearing would be scheduled on whether to allow claimant's late request for hearing and, if so, the merits of decision # 193440.

On May 14, 2024, ALJ Frank conducted the hearing, and on May 22, 2024, issued Order No. 24-UI-254835, dismissing claimant's late request for hearing and leaving decision # 193440 undisturbed. On June 4, 2024, claimant filed an application for review of Order No. 24-UI-254835 with the Employment Appeals Board (EAB). On June 28, 2024, EAB issued EAB Decision 2024-EAB-0489, reversing Order No. 24-UI-254835 by allowing claimant's late request for hearing, and remanding the matter for a hearing on the merits of decision # 193440. On August 26, 2024, ALJ Frank conducted a hearing, and on September 4, 2024, issued Order No. 24-UI-264851, affirming decision # 193440. On September 24, 2024, Order No. 24-UI-264851 became final without claimant having filed an application for review with EAB. On September 27, 2024, claimant filed a late application for review of Order No. 24-UI-264851 with EAB.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of the statements claimant submitted on September 27 and October 1, 2024, for consideration with her late application for review and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

**FINDING OF FACT:** (1) Order No. 24-UI-264851, mailed to claimant on September 4, 2024, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 24-UI-264851 at 13. Order No. 24-UI-264851 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before September 24, 2024, to be timely.” Claimant filed her application for review of Order No. 24-UI-264851 by email on September 27, 2024.

**CONCLUSIONS AND REASONS:** Claimant’s late application for review of Order No. 24-UI-264851 is dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 24-UI-264851 was due by September 24, 2024. Because claimant did not file her application for review until September 27, 2024, the application for review was late. Claimant provided written statements with the application for review. However, claimant’s written statements did not describe circumstances preventing her from filing the application for review on time, and instead primarily addressed her disagreement with parts of the order. *See* EAB Exhibit 1.<sup>1</sup> Accordingly, claimant did not show good cause for the late application for review, and her late application for review is dismissed.

**DECISION:** The application for review filed September 27, 2024, is dismissed. Order No. 24-UI-264851 remains undisturbed.

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<sup>1</sup> These statements also questioned the outstanding balance of the overpayment and suggested that claimant was given information in that regard that differed from the conclusions of the order under review. Order No. 24-UI-264851 affirmed decision # 193440’s conclusions that claimant was liable to repay a total of \$11,667 in state and federal benefits plus a \$3,500.10 monetary penalty, for a total of \$15,167.10. The Department’s records suggest that a partial waiver of \$990 was granted in July 2024. As of the date of EAB’s decision, the Department’s records show an outstanding balance of \$11,975.47, which may reflect additional amounts waived or recovered since the assessment of the overpayment, plus accrued interest. Claimant should contact the Department directly to resolve questions regarding this balance and how it was calculated.

D. Hettle and A. Steger-Bentz;  
S. Serres, not participating.

**DATE of Service: October 15, 2024**

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](https://courts.oregon.gov). Once on the website, use the ‘search’ function to search for ‘petition for judicial review employment appeals board’. A link to the forms and information will be among the search results.

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# Understanding Your Employment Appeals Board Decision

## English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

## Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyon.

## Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

## Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

## Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

**Khmer**

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**Laotian**

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**Arabic**

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الإستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار .

**Farsi**

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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